



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R09-OAR-2016-0653; FRL-9963-43-Region 9]**

#### **Approval of Nevada Air Plan Revisions, Clark County Department of Air Quality and**

#### **Washoe County Health District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Clark County Department of Air Quality (CCDAQ) and Washoe County Health District (WCHD) portions of the Nevada State Implementation Plan (SIP). These revisions concern emissions of particulate matter (PM) from fugitive dust and wood burning. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

**DATES:** These rules are effective on **[Insert date 30 days after the date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2016-0683. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

through <http://www.regulations.gov>, or please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Christine Vineyard, EPA Region IX, (415) 947-4125, [vineyard.christine@epa.gov](mailto:vineyard.christine@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to the EPA.

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### **I. Proposed Action**

On March 10, 2017 (82 FR 13278), the EPA proposed to approve the following rules into the Nevada SIP.

Local Agency	Rule #	Rule Title	Adopted/ Amended/ Revised	Submitted
WCHD	010.000	Definitions	05/26/16	08/15/16
WCHD	040.051	Wood-Burning Devices	05/26/16	08/15/16
CCDAQ	26	Emission of Visible Air Contaminants	05/05/16	06/29/15

CCDAQ Rule 26 was revised to reference EPA Test Method 9 to determine compliance.

WCHD Rules 010.000 and 040.051 were revised to add requirements from another WCHD rule and from national wood heater requirements. We proposed to approve these revised rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

## **II. Public Comments and EPA Responses**

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

## **III. EPA Action**

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the Nevada SIP.

## **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the WCHD and CCDAQ rules described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>1</sup> The EPA has made, and will continue to make, these documents available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please

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<sup>1</sup> 62 FR 27968 (May 22, 1997)

contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

## **V. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**Insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 23, 2017.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart DD – Nevada**

2. In §52.1470(c), Table 3 is amended by revising the entry for “Section 26.” and Table 7 is amended by revising the entries for “010.000” and “040.051” to read as follows:

**§52.1470 Identification of plan.**

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(c) \* \* \*

**Table 3 – EPA-Approved Clark County Regulations**

County citation	Title/Subject	County effective date	EPA Approval Date	Additional explanation
*****				
Section 26	Emission of Visible Air Contaminants	05/05/2016	[INSERT <b>Federal Register</b> CITATION], [INSERT DATE OF PUBLICATION]	Submitted on June 29, 2015.
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**Table 7 – EPA-Approved Washoe County Regulations**

District citation	Title/Subject	District effective date	EPA Approval Date	Additional explanation
*****				
010.000	Definitions	05/26/2016	[INSERT <b>Federal Register</b> CITATION],	Submitted on August 15, 2016.

			[INSERT DATE OF PUBLICATION]	
*****				
040.051	Wood-Burning Devices	05/26/2016	[INSERT <b>Federal Register</b> CITATION], [INSERT DATE OF PUBLICATION]	Submitted on August 15, 2016.
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[FR Doc. 2017-12470 Filed: 6/15/2017 8:45 am; Publication Date: 6/16/2017]